

1 KEKER, VAN NEST & PETERS LLP
ELLIOT R. PETERS - # 158708
2 epeters@keker.com
ERIC H. MACMICHAEL - # 231697
3 emacmichael@keker.com
BENJAMIN D. ROTHSTEIN - # 295720
4 brothstein@keker.com
BAILEY W. HEAPS - # 295870
5 bheaps@keker.com
DEEVA SHAH - # 319937
6 dshah@keker.com
CHRISTINE M. ZALESKI - # 331727
7 czaleski@keker.com

8 633 Battery Street
San Francisco, CA 94111-1809
9 Telephone: 415 391 5400
Facsimile: 415 397 7188

10 Attorneys for Defendants
11 NIXON PEABODY, LLP and
FORREST DAVID MILDER

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION
15

16 SOLARMORE MANAGEMENT
SERVICES, INC., a California corporation;
17 CARL AND BARBARA JANSEN, a married
couple,

18 Plaintiff,

19 v.

20 NIXON PEABODY, LLP, a New York limited
liability partnership; FORREST DAVID
21 MILDER, a married individual,

22 Defendants.
23
24
25
26
27
28

Case No. 2:20-cv-02446-JAM-DB

**DEFENDANTS' REQUEST TO
CONTINUE RULE 26(F) CONFERENCE
AND [PROPOSED] ORDER**

Date Filed: 12/10/2020

Trial Date: Not yet set

1 On March 12, 2021, the Court granted the parties' stipulation to continue the deadline for
2 the Federal Rule of Civil Procedure 26(f) conference to 120 days from the entry of the Court's
3 order or 30 days after the Court ruled on any motion to dismiss filed by Defendants. ECF No. 38.
4 This extension was intended to give Plaintiffs time to substitute new counsel. *Id.* at 2-3.

5 On July 6, 2021, Defendants requested that the Court further continue the Rule 26(f)
6 conference because no new counsel had appeared, Plaintiffs had not provided any further
7 information to Defendants regarding their new counsel, and thus the parties were unable to meet
8 and confer in advance of the conference as required by Rule 26(f)(1). ECF No. 40. The Court
9 granted that request the same day. ECF No. 42.

10 On September 27, 2021, Defendants requested that the Court again continue the Rule
11 26(f) conference, because no new counsel had appeared, Plaintiffs had not provided any further
12 information to Defendants regarding their new counsel, and thus the parties were unable to meet
13 and confer in advance of the conference as required by Rule 26(f)(1). ECF No. 45. On September
14 29, 2021, the Court granted that request and set the Federal Rule of Civil Procedure 26(f)
15 conference to a date 90 days from September 29 (i.e. December 27, 2021), or to a later date more
16 convenient for the Court. ECF No. 47.


17 Defendants have not yet filed a motion to dismiss. *See* ECF No. 38. To date, no new
18 counsel has appeared on behalf of any of the Plaintiffs, nor have Plaintiffs provided further
19 information to Defendants regarding their new counsel. Consequently, Defendants are unable to
20 meet and confer in advance of the conference as required by Rule 26(f)(1).

21 For that reason, Defendants respectfully request that the Court continue the Rule 26(f)
22 conference 90 days from the date this order is entered, or to a later date more convenient for the
23 Court, in order to give Plaintiffs time to substitute new counsel and allow the parties to meet and
24 confer in advance of the conference.

1 Dated: December 20, 2021

KEKER, VAN NEST & PETERS LLP

2
3 By:


ELLIOT R. PETERS
ERIC H. MACMICHAEL
BENJAMIN D. ROTHSTEIN
BAILEY W. HEAPS
DEEVA SHAH
CHRISTINE M. ZALESKI

4
5
6
7 Attorneys for Defendants
NIXON PEABODY, LLP and
8 FORREST DAVID MILDER
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

Based on the request by Defendants and for good cause shown, the Court continues the date of the Federal Rule of Civil Procedure 26(f) conference to 90 days from the date this order is entered or to a later date more convenient for the Court.

IT IS SO ORDERED.

Dated:

THE HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE

PROOF OF SERVICE

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Keker, Van Nest & Peters LLP, 633 Battery Street, San Francisco, CA 94111-1809.

On **December 20, 2021**, I served the following document(s):

DEFENDANTS' REQUEST TO CONTINUE RULE 26(F) CONFERENCE AND [PROPOSED] ORDER

- ☒ by regular **UNITED STATES MAIL** by placing a copy in a sealed envelope addressed as shown below. I am readily familiar with the practice of Keker, Van Nest & Peters LLP for collection and processing of correspondence for mailing. According to that practice, items are deposited with the United States Postal Service at San Francisco, California on that same day with postage thereon fully prepaid. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or the postage meter date is more than one day after the date of deposit for mailing stated in this affidavit. **AND**
- ☒ by **E-MAIL VIA PDF FILE**, by transmitting on this date via e-mail a true and correct copy scanned into an electronic file in Adobe "pdf" format. The transmission was reported as complete and without error.

Brian J. Foster
Ross P. Meyer
Wilenchik & Bartness
The Wilenchik & Bartness Building
2810 N. Third Street
Phoenix, AZ 85004

Email: admin@wb-law.com
bfoster@wb-law.com
rossm@wb-law.com

Howard King
John Snow
King, Holmes, Paterno & Soriano, LLP
1900 Avenue of the Stars, 25th Floor
Los Angeles, CA 90067

Email: JSnow@khpslaw.com
ksloane@khpslaw.com

Executed on **December 20, 2021**, at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Shelby L. Brock